

PARTIES

2 3. Plaintiff MARK AARON HAYNIE is a natural person and citizen of the
3 United States and of the State of California and was at all material times a
4 resident of Alameda County.

5 4. Plaintiff CALGUNS FOUNDATION, INC., (CGF) is a non-profit organization
6 incorporated under the laws of California with its principal place of business
7 in Redwood City, California. The purposes of CGF include supporting the
8 California firearms community by promoting education for all stakeholders
9 about California and federal firearms laws, rights and privileges, and
10 defending and protecting the civil rights of California gun owners. CGF
11 represents its members and supporters, which include California gun owners.
12 CGF brings this action on behalf of itself and its supporters, who possess all
13 the indicia of membership.

14 5. Plaintiff SECOND AMENDMENT FOUNDATION, INC., (SAF) is a non-
15 profit membership organization incorporated under the laws of Washington
16 with its principal place of business in Bellvue, Washtington. SAF has over
17 650,000 members and supporters nationwide, including California. The
18 purposes of SAF include education, research, publishing and legal action
19 focusing on the Constitutional right to privately owned and possess firearms,
20 and the consequences of gun control. SAF brings this action on behalf of
21 itself and its members.

22 6. Defendant CITY OF PLEASANTON is a municipal corporation organized
23 under the laws of the State of California. This municipality is located in the
24 County of Alameda.

25 7. Defendant CITY OF PLEASANTON POLICE DEPARTMENT is a police
26 department within the City of Pleasanton, California.

27 8. Defendant CALIFORNIA DEPARTMENT OF JUSTICE is an agency of the
28 State of California, headed by the Attorney General of the State, with a

1 statutory duty to administer and interpret the law and promulgate
2 regulations regarding weapons identified by the California Legislature as
3 “Assault Weapons.” This agency has the power to issue memorandums,
4 bulletins and opinion letters to law enforcement agencies throughout the
5 State regarding reasonable interpretations of what constitutes an “Assault
6 Weapon” under California Law.

7 9. At this time, Plaintiffs are ignorant of the names of the individual police
8 officers who arrested Plaintiff HAYNIE as no discovery was exchanged in the
9 criminal action before the case was dropped from the docket. Plaintiffs
10 therefore name these individual officers as DOE Defendants and reserves the
11 right to amend this complaint when their true names are ascertained.
12 Furthermore, if/when additional persons and entities are discovered to have
13 assisted and/or lent support to the wrongful conduct of the Defendants named
14 herein, Plaintiff reserves the right to amend this complaint to add those
15 persons and/or entities as Defendants.

JURISDICTION AND VENUE

18 10. This Court has subject matter jurisdiction over this action pursuant to 28
19 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. §§ 1983, 1988.

20 11. This Court has supplemental jurisdiction over state law causes of action
21 arising from the same operative facts under 28 U.S.C. § 1337.

22 12. Venue for this action is proper under 28 U.S.C. §§ 1331 and/or the Civil Local
23 Rules for bringing an action in this district.

CONDITIONS PRECEDENT

26 13. All conditions precedent have been performed, and/or have occurred, and/or
27 have been excused, and/or would be futile.

FACTS

2 14. On or about February 7, 2009 officers (currently named as DOE Defendants)
3 of the PLEASANTON POLICE DEPARTMENT arrested and detained MARK
4 HAYNIE thus depriving him of his liberty. The agency case numbers for the
5 incident are: CEN: 09-6635 and PFN: BHD164. The docket number for the
6 Alameda Superior Court Case was: 09318856.

7 15. MARK HAYNIE was cited for possession of an Assault Weapon under
8 California Penal Code § 12280 et seq. Bail was set at \$60,000.00. This
9 caused MARK HAYNIE to have to pay a \$6,000 fee to a bail bondsman.

10 16. MARK HAYNIE's rifle was not an Assault Weapon because it was not listed
11 in California Penal Code § 12276; nor could it be identified under Penal Code
12 § 12276.1 because it lacked a detachable magazine.

13 17. MARK HAYNIE made all required court appearances. The Alameda County
14 District Attorney's office declined to file an information against MARK
15 HAYNIE and the matter was formally dropped from the Alameda County
16 Superior Court Criminal Docket on March 27, 2009.

17 18. MARK HAYNIE was deprived of his liberty until March 27, 2009 when bail
18 was exonerated in Department 701 by Superior Court Judge Walker.

19 19. MARK HAYNIE lost time off from work to make court appearances and
20 incurred other losses associated with said criminal charges.

21 20. MARK HAYNIE was deprived of the possession and use of valuable personal
22 property (a rifle) from the date of arrest until mid-June of 2009.

23 21. On or about October 21, 2009, MARK HAYNIE obtained a finding of factual
24 innocence under California Penal Code 851.8 from the PLEASANTON
25 POLICE DEPARTMENT.

26 22. CALGUNS FOUNDATION, INC., paid for Plaintiff MARK HAYNIE'S
27 representation in the criminal matter in the amount of: \$3,713.43.

28 23. The deliberate indifference of all Defendants of the civil rights of MARK

1 HAYNIE resulted in the possible negligent training of the police officers
 2 employed by the PLEASANTON POLICE DEPARTMENT, which in turn
 3 caused MARK HAYNIE'S injuries.

4 24. The CALIFORNIA DEPARTMENT OF JUSTICE is the State agency
 5 responsible for the training and education of law enforcement agencies with
 6 respect to Assault Weapons under Penal Code §§ 12276.5 and 12289.

7 25. The failure by the CALIFORNIA DEPARTMENT OF JUSTICE to properly
 8 identify illegal (and legal) weapons and distribute educational materials to
 9 law enforcement agencies within this state is the result of deliberate
 10 indifference to the civil rights of gun owners and/or a breach of a known duty
 11 that is likely to result in arrest and wrongful prosecution of innocent people.
 12 Furthermore this failure to identify illegal (and legal) weapons amounts to a
 13 pattern, practice and custom of chilling the exercise of gun owners' rights
 14 associated with the Second Amendment.

15 26. Plaintiffs allege on information and belief that the CALIFORNIA
 16 DEPARTMENT OF JUSTICE had identified various weapons (including
 17 HAYNIE'S weapon) as legal to own in California, but in fact undermined the
 18 lawful administration of justice by encouraging California's 58 District
 19 Attorneys to interpret the law in an *ad hoc* way for each case filed or brought
 20 to their attention. This conduct resulted in the arrests and dismissals of
 21 several cases throughout California. This policy and practice has resulted in
 22 several miscarriages of justice throughout the State.

23 27. Furthermore, Plaintiffs allege on information and belief that the
 24 CALIFORNIA DEPARTMENT OF JUSTICE has engaged in prior acts of
 25 retaliatory prosecution against gun owners/dealers after they have asserted
 26 various statutory and constitutional rights, thus causing Plaintiff HAYNIE to
 27 seek a finding of factual innocence as a prerequisite to filing this action to
 28 avoid retaliation.

1 28. The wrongful conduct of the Defendants, and each of them, resulted in the
 2 following injuries to Plaintiffs:

3 a. An unreasonable seizure of Plaintiff MARK HAYNIE and deprivation
 4 of his liberty when he was arrested, detained, booked, and required to
 5 make bail and various court appearances on charges for which he was
 6 factually innocent.

7 b. A violation of MARK HAYNIE's Second Amendment right to keep and
 8 bear arms that are in common use for lawful purposes.

9 c. Interference with MARK HAYNIE's exercise of Civil Rights secured by
 10 United States Constitution.

11 d. Monetary damages to MARK HAYNIE of \$6,000 for a bail bond and
 12 additional amounts for lost wages and other costs.

13 e. Monetary damages to CALGUNS FOUNDATION, INC., in the amount
 14 of \$3,713,43.

15 29. The continued wrongful conduct of the Defendant CALIFORNIA
 16 DEPARTMENT OF JUSTICE will result in additional wrongful arrests and
 17 prosecutions of innocent gun owners who are members of the CALGUNS
 18 FOUNDATIONS, INC., and the SECOND AMENDMENT FOUNDATION,
 19 INC. These arrests will result in the unconstitutional, unreasonable seizure
 20 of innocent gun owners exercising their Second Amendment rights. There is
 21 no adequate remedy at law except an order from this Court that the
 22 CALIFORNIA DEPARTMENT OF JUSTICE issue a letter and/or
 23 memorandum to all law enforcement agencies and District Attorneys' offices
 24 of this State which is similar to, or conveys the same information as the
 25 flowchart recommended by the CALGUNS FOUNDATION INC., to its
 26 members and the public at large. The flowchart is located at the following
 27 URL: <http://www.calguns.net/caawid/flowchart.pdf> .

28

**FIRST CLAIM FOR RELIEF: 42 USC § 1983
PLAINTIFF HAYNIE AGAINST DEFENDANTS: CITY OF PLEASANTON,
THE PLEASANTON POLICE DEPARTMENT AND DOE DEFENDANTS
FOURTH AMENDMENT, UNITED STATES CONSTITUTION**

30. Paragraphs 1 through 29 are incorporated by reference as though fully set forth.
31. Plaintiff MARK AARON HAYNIE claims damages for injuries set forth above under 42 U.S.C. § 1983 against Defendants CITY OF PLEASANTON, the PLEASANTON POLICE DEPARTMENT and the DOE Defendants for a violation, under color of law, of his constitutional right to be free from unreasonable seizure under the Fourth Amendment to the United States Constitution as that right is applied to the States through the Fourteenth Amendment.

SECOND CLAIM FOR RELIEF: 42 USC § 1983
PLAINTIFF HAYNIE AGAINST DEFENDANTS: CITY OF PLEASANTON,
THE PLEASANTON POLICE DEPARTMENT AND DOE DEFENDANTS
SECOND AMENDMENT, UNITED STATES CONSTITUTION

32. Paragraphs 1 through 29 are incorporated by reference as though fully set forth.
33. Plaintiff MARK AARON HAYNIE claims damages for injuries set forth above under 42 U.S.C. § 1983 against Defendants CITY OF PLEASANTON, PLEASANTON POLICE DEPARTMENT and the DOE Defendants for a violation, under color of law, of his constitutional right to keep and bear arms¹ that are in common use for lawful purposes, a right protected by the Second Amendment as that right is applied through the 14th Amendment.

25 ¹ Plaintiff acknowledges that this claim is presently barred in this Circuit because the
26 Second Amendment to the United States Constitution has not been incorporated against State
27 action. See generally: *Nordyke v. King*, 563 F.3d 439 (9th Cir. 2009) and the order for rehearing
28 *en banc* at *Id.*, 575 F.3d 890 (9th Cir. 2009). This issue is presently pending before the United
States Supreme Court in *McDonald v. Chicago*, Case No. 08-1521 with a decision expected this
Summer. This cause of action is being plead in a good faith argument for modifying or reversing
existing law in this Circuit pursuant to Fed. R. Civ. Proc. 11(b)(2).

1 **THIRD CLAIM FOR RELIEF: CALIFORNIA CIVIL CODE §§ 52 & 52.1**
 2 **PLAINTIFF HAYNIE AGAINST DEFENDANTS: CITY OF PLEASANTON,**
 3 **THE PLEASANTON POLICE DEPARTMENT AND DOE DEFENDANTS**
 4 **SECOND and FOURTH AMENDMENT, UNITED STATES CONSTITUTION**

5 34. Paragraphs 1 through 29 are incorporated by reference as though fully set
 6 forth.

7 35. Plaintiff MARK AARON HAYNIE claims damages for injuries set forth above
 8 under California Civil Code §§ 52 & 52.1, against Defendants CITY OF
 9 PLEASANTON, the PLEASANTON POLICE DEPARTMENT and the Dow
 10 Defendants for interference with his rights under the United States
 11 Constitution, including but not limited to his right to be free from
 12 unreasonable seizure and his right to keep and bear arms.

13 36. Plaintiff MARK AARON HAYNIE seeks all statutory damages available,
 14 including any compensatory damages in an amount according to proof.

15 **FOURTH CLAIM FOR RELIEF: 42 U.S.C. § 1983,**
 16 **CALIFORNIA CIVIL CODE §§ 52 & 52.1.**
 17 **ALL PLAINTIFFS AGAINST DEFENDANT:**
 18 **CALIFORNIA DEPARTMENT OF JUSTICE**
 19 **- PROSPECTIVE INJUNCTIVE RELIEF -**

20 37. Paragraphs 1 through 29 are incorporated by reference as though fully set
 21 forth.

22 38. Plaintiffs MARK HAYNIE, CALGUNS FOUNDATION, INC., and SECOND
 23 AMENDMENT FOUNDATION, INC., seek prospective injunctive relief
 24 against the Defendant CALIFORNIA DEPARTMENT OF JUSTICE to
 25 compel them to comply with their duties under California Penal Code §§
 26 12276.5 and 12289.

27 39. Said injunctive relief will insure uniform and just application of California's
 28 Weapons Control Laws. Uniform and just enforcement of these laws are
 29 important because these laws regulate the fundamental Second Amendment
 30 right of every law abiding citizen to keep and bear arms that are in common
 31 use for lawful purposes.

1 40. Specifically, Plaintiffs seek an order that the Defendant CALIFORNIA
2 DEPARTMENT OF JUSTICE be compelled to issue a letter and/or
3 memorandum to all law enforcement agencies and District Attorney Offices
4 that contains the information already provided to the public at this URL:
5 <http://www.calguns.net/caawid/flowchart.pdf>

6
7 WHEREFORE, the Plaintiffs demands a jury trial and requests that this Court:

8 A. Award compensatory damages to the Plaintiff MARK HAYNIE and
9 CALGUNS FOUNDATION, INC., against Defendants CITY OF
10 PLEASANTON, The PLEASANTON POLICE DEPARTMENT, and
11 the DOE Defendants, jointly and severally, in an amount according to
12 proof;

13 B. Award costs of this action to all the Plaintiffs;

14 C. Award reasonable attorney fees and costs to the Plaintiffs on all
15 Claims of the complaint, including but not limited to fee/cost awards
16 under 42 USC § 1983, 1988 and California Civil Code §§ 52, 52.1 and
17 California Code of Civil Procedure § 1021.5;

18 D. Injunctive and declaratory relief against the Defendant CALIFORNIA
19 DEPARTMENT OF JUSTICE to prevent future constitutional
20 violations and miscarriages of Justice;

21 E. Such other and further relief as this Court may deem appropriate.

22 Dated: March 24, 2010,



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